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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,860	11/09/2001	James W. Kasper	062891.0668	2711

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EXAMINER

ABYANEH, ALI S

ART UNIT PAPER NUMBER

2137

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/990,860

Applicant(s)

KASPER ET AL.

Examiner

Ali S. Abyaneh

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-37 and 39.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

Continuation of 13. Other: Applicant argues in page 12 of the remarks, in Vaidya "...although each data collector has a signature profile memory for storing attack signature profiles, it does not have more than one signature profile memory". Examiner respectfully disagrees. Vaidya specifically teaches a system including more than one signature profile (column 3, lines 12-16). Applicant argument that in Kouznetsov, "identification information for a server is not, however, data indicative of parameters and associated values for the signature to be modified" is not persuasive. Claim 19 recites: "receiving from the sensor data indicative of parameter and associated value for the signature to be modified...". Kouznetsov teaches for updating the attack pattern, two items of data has been used (see column 7, lines 53-58), therefore one ordinary skill in the art could simply interprets theses two items of data as data indicative of parameters and associated values for signature to be modified. Applicant further argues in Chen "...despite disclosing an additional virus detection object, the passage fails to disclose a modified signature". However, this is incorrect. Chen teaches objects are tailored or modified according to conditions discovered as result of execution of previously produces virus detection objects. A tailored object is similar to a modified signature, therefore Chen reads on the claim limitation (see column 3, lines 12-16). Applicant argues, "...Bardsley fails to teach "the signature definitions comprising: an engine parameter and an associated name for the engine parameter." Examiner respectfully disagrees. Examiner interprets the "an engine parameter and associated name for the engine parameter" as being only a sort of data in the signature definition since the claim language does not provide as what exactly the engine parameter and associated name for the engine parameter is or could be considered as, based on this interpretation Bardsley's reference clearly read on the claim limitations since Bardsley's signature definition includes many different parameters and data (see paragraph [0024]-[0029]). Applicant's amendments to the claims 2 and 13 have changed and altered the scope of the dependent claims. For example dependent claims 3, 4 and 6-10 originally were rejected in light of claim 1, applicant by amending the claim 2 to incorporate the limitations of the claim 1 has changed the scope of the claim 3, 4 and 6-10, since these claims have to be rejected in light of combination of the original claim 1 and 2. Therefore amendment to the claims requires further consideration and possible search and will not be entered..